

**LAW OFFICES OF F. EDIE MERMELSTEIN**

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individual

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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

ANTONIA BASILOTTA, p/k/a TONI  
BASIL an individual,  
Plaintiff,

vs.

Simon Peter Lait, an individual; Clive  
Solomon, an individual; Stillwater, Ltd., a  
United Kingdom company; Razor & Tie  
Direct L.L.C., a New York Limited  
Liability Company; Razor & Tie  
Entertainment, L.L.C., a New York  
Limited Liability Company; and Razor &  
Tie Music Corp., a New York Corporation  
and DOES 1-10,

Defendants.

CASE NO. CV 12 - 05186 DDP (SHx)

**COMPLAINT**

**JURY TRIAL DEMANDED**

(1) Fraud or Deceit; (2) Misappropriation  
of Likeness in Violation of California  
Civil Code §3344; (3) Misappropriation of  
Name and Likeness in Violation of  
Common Law; (4) Unjust Enrichment; (5)  
Involuntary Trust; (6) Rescission based on  
Fraud and/or Lack of Consideration; (7)  
Violation of Business & Professions Code  
§ 17200, et seq; (8) Breach of Contract;  
(9) Accounting; and (10) Declaratory  
Relief.

**COMPLAINT**

Plaintiff, ANTONIA CHRISTINA BASILOTTA (p/k/a "Toni Basil"), brings this  
complaint and alleges as follows:

***NATURE OF THE ACTION AND RELIEF SOUGHT***

1. Plaintiff, TONI BASIL, files this action seeking an order from the Court to quiet title and provide declaratory relief of ownership rights for the following U.S.

Copyrighted Master Recordings:

- (A) MASTER RECORDING entitled “Word of mouth / [performed by] Toni Basil” US Copyright Registration No. SR0000038729;
- (B) MASTER RECORDING entitled “Mickey / N. Chinn, M. Chapman ; [performed by] Toni Basil. Thief on the loose / T. Basil, G. Mathieson ; [performed by] Toni Basil” US Copyright Registration No. SR0000041440;
- (C) MASTER RECORDING entitled “Mickey : Spanish version / N. Chinn, M. Chapman ; [performed by] Toni Basil. Thief on the loose / T. Basil, G. Mathieson ; [performed by] Toni Basil.” US Copyright Registration No. SR0000041439;
- (D) MASTER RECORDING entitled “Mickey : special club mix / N. Chinn, M. Chapman ; [performed by] Toni Basil. Mickey : Spanish version / N. Chinn, M. Chapman ; [performed by] Toni Basil” US Copyright Registration No. SR0000041392

*(Collectively the “Toni Basil Masters”)*

2. The Toni Basil Masters include Plaintiff’s iconic, famous and world-renowned, Eighties cheerleading anthem, “Hey Mickey” (hereinafter “*Mickey*”). *Mickey* is the highly marketed, commercially successful master recording, which has derived a significant amount of income for Defendants, in which Plaintiff was and is entitled;

3. Plaintiff alleges that Simon Peter Lait, through a series of fraudulent transfers, commandeered Plaintiff’s ownership of *Mickey*, while all Defendants have

1 engaged in a continuing campaign to exploit and use Plaintiff's name, voice, photograph  
2 and likeness without any legal right to do so;

3 4. Plaintiff seeks temporary and permanent injunctive relief, damages  
4 (including actual and punitive damages, costs, and fees and expenses of attorneys and  
5 other professionals), breach of contract, copyright infringement, rescission of contract, and  
6 other appropriate relief, arising out of, among other things, Defendants' willful actions and  
7 in conscious disregard of Toni Basil's rights;

### 8 ***PARTIES***

9 5. Plaintiff, Toni Basil, is a resident of the State of California, County of Los  
10 Angeles. Ms. Basil is a recording artist and choreographer credited with her most famous  
11 work, *Mickey*, which has been exploited and unlawfully licensed throughout the world  
12 over the last three decades;

13 6. Defendant, Simon Peter Lait ("Lait") is a citizen of the United Kingdom  
14 ("UK"). Lait was the principal of Radialchoice Limited ("Radialchoice"), the now defunct  
15 UK independent record label, which was involuntarily dissolved on or about June 14,  
16 1988, and also the principal in the UK registered defunct company Ultratape Limited,  
17 which later changed its name to Alarum Limited ("Ultratape/Alarum"), which was also  
18 involuntarily dissolved on or about September 8, 1998. Lait's last known address is Pilton  
19 Road, The Old Rectory, Glebe Court, Wadenhoe, Northhamshire PE8 5SY, United  
20 Kingdom;

21 7. Defendant, Stillwater Limited ("Stillwater"), whose principal is Clive  
22 Solomon ("Solomon"), is a UK registered company that purports to have obtained legal  
23 title to the Toni Basil Masters, including *Mickey* by way of transfers and assignments,  
24 without ever obtaining the required written permission from Toni Basil. Stillwater's last  
25 known address is 21a Maury Road, Hackney, London N16, 7BP, United Kingdom;

26 8. Defendants, Razor & Tie Direct L.L.C. (a New York Domestic Limited  
27 Liability Company), Razor & Tie Entertainment, L.L.C. (a New York Domestic Limited  
28 Liability Company) and Razor & Tie Music Corporation, (a New York Domestic Business

Corporation) (collectively “R&T”) purport to be the United States and Canadian licensee of the Toni Basil Masters and have actively marketed Mickey commercially without obtaining the permission of Toni Basil. R&T’s last known address is 214 Sullivan Street, #4A, New York, New York 10012;

9. Plaintiff, Toni Basil is ignorant of the true names and capacities of defendants sued herein as DOES 1 through 50, inclusive, and therefore sues these defendants by such fictitious names. Plaintiff will amend this complaint to allege their true names and capacities when ascertained.

### ***JURISDICTION AND VENUE***

10. This Court has subject-matter jurisdiction over this action pursuant to 28 U.S.C. § 1332(a)(1), in that complete diversity of citizenship exists between Ms. Basil and Defendants and the amount in controversy exceeds \$75,000, exclusive of interest and costs;

11. This Court also has subject-matter jurisdiction over this action pursuant to 28 U.S.C. § 1331, and such jurisdiction is exclusive of state courts pursuant to 28 U.S.C. § 1338, in that this action arises under the U.S. Copyright Act of 1976, as amended, 17 U.S.C. § 101 et seq, more specifically dealing with 17 U.S.C.A. § 204(a);

12. This Court has jurisdiction as this case arises under the United States Constitution and the laws of the United States and presents a federal question within this Court’s jurisdiction under Article III of the United States Constitution and 28 U.S.C. § 1331 as such, this Court has authority to grant declaratory relief pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq.

13. This Court has pendent jurisdiction over the state-law claims in this action in that the federal and state claims constitute a single case and the same evidence will prove both sets of claims;

14. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(2), in that a substantial part of the events giving rise to the claims occurred within the Central District

1 of California, including the execution of the contract at issue, as well as marketing,  
 2 advertising, promotion, offering for sale, and sale of *Mickey*. Plaintiff is a California  
 3 resident and hereby asserts herself as the rightful copyright holder of the Toni Basil  
 4 Masters, which are the subject of this complaint;

### 5 ***THE RECORDING AGREEMENTS***

#### 6 **The 1979/80 Recording Contract (“Controlling Agreement”)**

7 15. On or about August 31, 1979, Toni Basil entered into a recording contract  
 8 with Radialchoice, Ltd. (“Radialchoice”). This record contract covers Basil’s first album,  
 9 entitled “Word of Mouth” which includes Toni Basil’s iconic song, *Mickey*. Attached  
 10 hereto as Exhibit 1 is the Controlling Agreement;

11 16. Toni Basil first album, “Word of Mouth” album produced the following  
 12 tracks: (1) Mickey; (2) Rock On; (3) Shopping A to Z; (4) You Got A Problem; (5) Be  
 13 Stiff; (6) Nobody; (7) Little Red Book; (8) Space Girls; (9) Thief On the Loose; (10) Time  
 14 After Time; (11) Hanging Around;

15 17. The Controlling Agreement grants Radialchoice ownership of the above  
 16 master recordings (“Masters”) and the world-wide copyright rights for Basil’s first album  
 17 and sets forth the royalty and accounting schedule payable and accountable to Basil;

18 18. The Controlling Agreement states in paragraph 11(b), “[Radialchoice] may  
 19 assign this Agreement together with its rights and obligations to such third party as it may  
 20 elect with [Basil’s] consent in writing PROVIDED THAT [Radialchoice] may so assign  
 21 without consent to any company owned or controlled by Simon Lait or in which the said  
 22 Simon Lait holds or shall hold a majority shareholding interest[.]”

23 19. Paragraph 15 of the Controlling Agreement states, “[t]his Agreement and  
 24 any and all extensions and/or modifications thereof shall be governed by the laws of  
 25 England.” The Controlling Agreement is silent as to choice of venue;

26 20. The Controlling Agreement further states in Paragraph 18(c), “[i]n no event  
 27 will [Radialchoice], its licensees or assigns produce a video tape or disc featuring the  
 28 masters or any of them without the prior approval of [Basil], which approval will not be

1 unreasonably withheld.”

2           21. On or about October 1, 1980, a letter agreement amending certain terms of  
3 the Controlling Agreement was signed by Radialchoice and Basil. The amendment dealt  
4 with the release of Basil’s first album and conferred ownership of the copyright in and to  
5 the videotape album containing the hit single *Mickey* equally to Basil and Radialchoice.  
6 Attached hereto as Exhibit 2 is the Amendment to the Controlling Agreement.

7                   **The 1982 Recording Contract (“Second Album Agreement”)**

8           22. On or about August 8, 1982, Toni Basil entered into a second recording  
9 contract with Radialchoice for a follow up album. This record contract covers Basil’s  
10 second album, entitled “Toni Basil.”

11           23. The second album entitled “Toni Basil” produced the following tracks: (1)  
12 Over My Head; (2) Do You Wanna Dance; (3) Go for the Burn; (4) Street Beat; (5)  
13 Suspense; (6) Spacewalkin' the Dog; (7) Best Performance; (8) Easy for You to Say; and  
14 (9) I Don't Hear You;

15           24. The Second Album Agreement is not an amendment to the Controlling  
16 Agreement, but a separate and distinct agreement for the recording of Plaintiff’s second  
17 self titled album and in does not in anyway control the rights to *Mickey*. The Second  
18 Album Agreement only controls the second album.

19           25. Under the Second Album Agreement, Clause 18.1 states, “[t]he Artiste  
20 expressly agrees that the Company may at any time transfer and assign this Agreement,  
21 and – or license all or any part of the Company’s rights hereunder, to any solvent and  
22 financially responsible person, firm or corporation which is a subsidiary of affiliate of  
23 Company or which has common ownership with Company or to any person, firm or  
24 corporation which shall acquire all or substantially all of Company’s assets, or to any other  
25 third party approved by Artiste, such approval not to be unreasonably unheld, and this  
26 Agreement shall inure to the benefit of the Company’s permitted successors, licensees and  
27 assigns.”

28



26. Provision 18.2(a) of the Second Album Agreement states, “[t]his agreement shall *automatically* terminate in the event of the Company going into liquidation (other than a voluntary liquidation for the purpose of reconstruction or amalgamation which in no way diminishes the rights, entitlements or privileges of Artiste hereunder) whereupon each and all rights vested in the Company hereunder shall *automatically and without necessity of any action of any kind irrevocably and totally revert to Artiste.*” [Emphasis added]

### ***CHAIN OF TITLE TO MICKEY***

27. Toni Basil entered into the Controlling Agreement with Radialchoice on or about August 31, 1979, which resulted in the creation of *Mickey*. Toni Basil was not a “work for hire” during this period and the Controlling Agreement does not contain a “work for hire” clause. Toni Basil conceptualized, storyboarded, and composed the famous opening chant – “*Hey Mickey you’re so fine, you’re so fine you blow my mind, Hey Mickey.*” Toni Basil altered an existing song written by Nicky Chinn and Michael Chapman entitled “*Kitty*,” adding the cheerleading chant she composed and then changed “*Kitty*” to “*Mickey*.” In addition, Toni Basil choreographed, produced, directed and creatively edited the music video and performed the song *Mickey*.

28. In the early 1980’s a lawsuit was instigated in the United Kingdom by “Word of Mouth” music producer Greg Mathieson (“Mathieson”), who was owed money by Radialchoice Ltd. for services in connection with the production of *Mickey*. Mathieson was awarded a judgment against Radialchoice Ltd. and began collection efforts. In an effort to abscond with all of the recording proceeds, and avoid payment to Mathieson, Radialchoice’s principal, Lait, carried out a plan to fraudulently convey the Toni Basil Masters to avoid payment of the judgment.

29. On or about December 5, 1983, Radialchoice Ltd., attempted to transfer title to *Mickey* (and other assets) to Ultratape Limited, a United Kingdom Company (Registered Number 1773227) that later changed its name to Alarum Limited (same company number). This attempted transfer of ownership to the copyright in *Mickey* was in effective because

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1 the transfer document did not list the Controlling Agreement in the schedule of Artiste  
2 Agreements, which was necessary to confer ownership of the copyright. In addition,  
3 Radialchoice did not obtain the written consent of Toni Basil for this transfer.

4 30. Provision 11.2 of the Radialchoice to Ultratape/Alarum transfer expressly  
5 states, “[t]his Agreement is personal to the parties hereto and **may not be assigned** but  
6 shall bind the successors of each of the parties hereto.” [Emphasis Added.]

7 31. On or about September 5, 1985, pending another forced liquidation of  
8 another company where Lait was at the helm, Ultratape/Alarum attempted to transfer  
9 *Mickey* to himself. Again, the transfer document failed to list the Controlling Agreement  
10 and Basil’s written consent to the transfer was not obtained. Additionally assignment is  
11 expressly prohibited as per the express term in the Radialchoice to Ultratape/Alarum  
12 transfer document noted in Paragraph 28 above, therefore this assignment was fraudulent  
13 and ineffective.

14 32. On or about March 31, 1987 Ultratape/Alarum failed to pay debts and  
15 royalties due and was involuntarily dissolved. On or about June 14, 1988, Radialchoice  
16 was wound up compulsorily and also officially involuntarily dissolved. Lait concealed  
17 these facts from Plaintiff who was unaware of the forced dissolution of the two entities.  
18 Additionally, the U.S. Copyright Office was never notified of any change in ownership.

19 33. On or about December 19, 1989, Lait entered into an agreement with an  
20 individual, Roy Clifford Tucker (“Tucker”) to transfer *Mickey* and the Toni Basil Masters.  
21 Although at this point in time, Plaintiff alleges *Mickey* had never legally transferred and  
22 remained in one of the bankrupt entities (Radialchoice or Ultratape/Alarum) and should  
23 have reverted back to her. The involuntary dissolutions were not made known to Plaintiff  
24 and she was unaware of the fraudulent transfers of her works. Instead Basil has been a  
25 victim of Lait’s affirmative concealment, which was only recently revealed to her on  
26 October 31, 2011 when Lait submitted a declaration with attached documents in the United  
27 States District Court – Southern District of New York in case number 11 CIV 5757 (JFK).  
28 Assuming arguendo that Lait could legitimately transfer *Mickey* to an individual (which is



1 not the case according to contract), it would be mandatory for Lait to obtain Toni Basil's  
2 written consent in order to comply with the express terms of the Controlling Agreement as  
3 more fully described in paragraph 16 above citing to provision 11(b) of the Controlling  
4 Agreement above.

5 34. Lait did not obtain consent from Toni Basil for the Lait to Tucker transfer,  
6 neither written nor verbal and continued to conceal this transfer, which was only  
7 discovered by Plaintiff on or about October 31, 2011, when Lait filed a declaration under  
8 penalty of perjury in the United States District Court – Southern District of New York.  
9 Attached to Lait's declaration, Lait produced a string of transfer and/or assignment  
10 documents including the attempted ineffective transfer from Lait to Tucker. Lait did not  
11 produce any documents evidencing Basil's written consent of the assignment because  
12 Plaintiff alleges that none exist.

13 35. On or about March 7, 1994, Tucker purportedly transferred and assigned  
14 Mickey to Odel Finance Corporation, a Panamanian corporation where Tucker was the  
15 principal. Again, this transaction was concealed from Plaintiff and her written consent was  
16 never obtained. In addition, the Controlling Agreement was not listed in the asset  
17 schedule. Plaintiff only discovered this transfer on or about October 31, 2011, when Lait  
18 filed a declaration under penalty of perjury in the United States District Court – Southern  
19 District of New York.

20 36. At some point in or around December 1995, Odel Finance Corporation  
21 ineffectively attempted to transfer and assign Mickey to Odel Licensing Limited, a British  
22 Isle offshore entity. Again, this transfer was concealed from Plaintiff, her written consent  
23 was not obtained for this transfer and she was unaware of this transfer until October 31,  
24 2011. In addition, the Controlling Agreement was not listed in the schedule of assets.

25 37. On or about October 1, 1997, Odel Licensing Limited attempted an  
26 ineffective transfer and assignment of Mickey to Twist and Shout Limited, a UK company.  
27 Again, this transfer was concealed from Plaintiff, her written consent was not obtained for  
28 this transfer and she was unaware of this transfer until October 31, 2011. In addition, the

1 Controlling Agreement was not listed in the schedule of assets.

2 38. On or about January 1, 2002, Twist and Shout Limited attempted an  
3 ineffective transfer to defendant Stillwater. Again, this transfer was concealed from  
4 Plaintiff, her written consent was not obtained for this transfer and she was unaware of this  
5 transfer until October 31, 2011. In addition, the Controlling Agreement was not listed in  
6 the schedule of assets.

### 7 ***FACTS***

8 39. Radialchoice and its purported successors in interest failed and continue to  
9 fail to make, royalty payments or account for sales relating to the use of Toni Basil's  
10 master recording of *Mickey* in violation of the Controlling Agreement;

11 40. Toni Basil's right to publicity has been severely and irreparably harmed  
12 where Defendants continuously exploit Plaintiff's name, voice, photograph and likeness  
13 without consent or authority to do so for their own gain in complete disregard for Ms.  
14 Basil's financial or emotional well being;

15 41. Toni Basil became aware of a Subway commercial that was using her master  
16 recording of her hit song "Mickey" in approximately January 2004. Toni Basil had not  
17 authorized the use of her performance and had not received any compensation for the  
18 unauthorized use of her performance;

19 42. In early 2004, Toni Basil, who was financially distressed, began a diligent  
20 search for an attorney who would take the Subway commercial case on contingency. In  
21 addition, Toni Basil sought representation regarding clarification of her rights in the master  
22 recording of her hit song *Mickey* as well as all of her other works that had been  
23 copyrighted by her former record company Radialchoice. She did extensive research and  
24 interviewed numerous attorneys with specific music law backgrounds. After reading  
25 several articles written by and/or featuring attorney Oren Warshavsky ("Warshavsky"),  
26 Toni Basil contacted Gibbons P.C. ("Gibbons"), the firm where Warshavsky was  
27 employed, to obtain representation. Ultimately Warshavsky and Gibbons abandoned  
28 Basil as a client and failed to uncover information relating to the status of Radialchoice.

1           43. In September 2007, Basil requested help from a California attorney to find  
2 out the status of Basil's claims that Gibbons and Warshavsky were retained to handle.  
3 James T. Hudson, a California attorney who was working for Toni Basil on a completely  
4 unrelated matter agreed to provide limited inquiry help only to Basil. Hudson wrote a  
5 letter on Toni Basil's behalf to Gibbons asking them to advise him of what course of action  
6 they intended on taking to pursue and protect Toni Basil's rights.

7           44. On November 7, 2007, Gibbons responded to James T. Hudson's inquiries  
8 and informed him that they were no longer representing Toni Basil.

9           45. After notice that Gibbons and Warshavsky had abandoned Basil and failed to  
10 properly investigate or prosecute her claims, Basil diligently sought contingent legal  
11 representation due to financial distress. Basil's efforts were futile until September 2009,  
12 when she contacted her current counsel, F. Edie Mermelstein ("Mermelstein"), who agreed  
13 to investigate the underlying actions. On February 17, 2010, Mermelstein filed a  
14 complaint for malpractice against Basil's former attorneys in New York Supreme Court  
15 Index Number 115524/09.

16           46. Mermelstein performed extensive research to discover whether Radialchoice,  
17 the listed US Copyright holder of *Mickey and the Toni Basil Masters* was dissolved, and if  
18 so whether the dissolution was voluntary or involuntary, which is not information readily  
19 available in the public domain. Mermelstein ordered the Radialchoice official documents  
20 from the United Kingdom's Companies House and weeks later she received microfiche.  
21 After obtaining a microfiche reader with printing capability, Mermelstein ultimately  
22 discovered the Radialchoice dissolution was in fact involuntary, which she believed  
23 triggered the reversion clause in the 1982 contract. Unaware of the succession of  
24 fraudulent transfers noted above in paragraphs 25 to 36 (because no writing of transfer had  
25 been recorded with the US Copyright Office), Mermelstein on behalf of Basil contacted  
26 Lait on or about June 14, 2010, to inform him that Basil was the rightful owner of the Toni  
27 Basil Masters due to the reversion clause in the 1982 Recording Contract and demanded  
28 relinquishment of the Toni Basil Masters.

1           47.     On June 15, 2010, Lait responded to Mermelstein's demand for the chain of  
2 title to *Mickey* and the Toni Basil Masters referencing the Ultratape/Alarum sale and  
3 assignment, but no other transactions. Mermelstein responded on June 15, 2010 and  
4 requested all written documentation purporting to have transferred *Mickey* and the Toni  
5 Basil Masters. Lait responded on June 18, 2010, and stated that he would attempt to locate  
6 documents and would respond shortly.

7           48.     Mermelstein continued to research on behalf of Basil and found that  
8 approximately one week after Lait's email response, on or about June 25, 2010, there was  
9 an attempt to open a company with the name "Alarum" in the UK. Mermelstein ordered  
10 all official documents referencing Ultratape/Alaram, and discovered that Ultratape/Alarum  
11 had also was involuntarily dissolved.

12           49.     On or about July 2, 2010, Mermelstein again attempted to contact Lait to get  
13 answers to Basil's questions regarding transfers and the chain of title. On or about July 2,  
14 2010, Lait responded and stated that he had trouble locating documents, but had retrieved  
15 some files and would be going over the documents and would provide as soon as they were  
16 located.

17           50.     On or about July 6, 2010, Lait provided a copy of the Ultratape/Alarum  
18 agreement and requested that Toni Basil cease claims of ownership. Mermelstein on  
19 Basil' behalf informed Lait that research has also shown that Ultratape/Alarum was also  
20 involuntarily dissolved.

21           51.     On or about December 13, 2010, Mermelstein, representing Basil, sent a  
22 certified letter to R&T putting them on notice of Basil's believed ownership interest in  
23 *Mickey*. In addition to informing R&T that it has no authority or permission to enter into  
24 any agreements to manufacturing, offer for sale, sell, advertise, market, or distribute  
25 Basil's performances of *Mickey* or commercially use Basil's name, likeness or voice.

26           52.     On or about December 29, 2010, R&T falsely claimed that Odel Finance  
27 Corporation and its successors and assigns legitimately licensed *Mickey* to R&T. On or  
28 about February 17, 2011, Basil again contacted R&T to put them on notice that they have

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1 no authority to license *Mickey*. Basil also informed R&T she had just become aware of  
2 numerous licensures of *Mickey* and the use of Basil's name, likeness and/or voice for  
3 commercial purposes was unauthorized. Basil also demanded and accounting. On or  
4 about March 16, 2011, R&T responded claiming that they were not in agreement with  
5 Plaintiff's allegations and claims.

6 53. On or about April 4, 2011, in response to a March 29, 2011 letter from  
7 Stillwater, Basil asserted ownership of *Mickey* and the Toni Basil Masters, demanded  
8 return of the physical masters and asked Stillwater to provide documentation of any claims  
9 to *Mickey*.

10 54. On or about May 7, 2011, Stillwater sent a correspondence to Mermelstein  
11 asking Basil to simply accept Stillwater's purported ownership without addressing or  
12 providing any documentation to show that title was obtained legitimately. Additionally  
13 Defendants have continually failed to provide any accounting or royalty payments to  
14 Plaintiff.

15 55. Believing Toni Basil was the rightful owner of the Toni Basil Masters based  
16 on the involuntary dissolutions and the reversion clause in the 1982 contract which  
17 required no action of law in the event the dissolutions were involuntary, on August 18,  
18 2011, Plaintiff filed an *In Rem* proceeding in the United States District Court – Southern  
19 District of New York, case number 11-CIV-5757 (JFK) ("USDC-NY Court"), based on the  
20 fact that the physical location of the Toni Basil Masters which are in storage in a New  
21 York location at R&T.

22 56. On October 31, 2011, as a result of the *In Rem* filing, Stillwater and R&T  
23 intervened and submitted a declaration from Simon Lait with written documents attached.  
24 This was the first time Basil had access to these transfer documents which clearly show the  
25 pattern of fraud and deceit perpetrated against Basil over nearly three decades.

26 57. On January 17, 2012, Plaintiff's expert witness, Paul Hutchinson  
27 ("Hutchinson"), submitted a declaration in support of Plaintiff's opposition to Stillwater's  
28 motion to dismiss the *In Rem* proceeding. Through Hutchinson's review of documents, it

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1 became clear the Controlling Agreement had never been effectively transferred and  
2 therefore *Mickey* and the Toni Basil Masters should have reverted to Plaintiff. Hutchinson  
3 determined that based on his in depth research on the usage and royalty analysis for the  
4 song, *Mickey*, the property has been highly profitable (in excess of \$75,000) and remains  
5 commercially viable. Plaintiff is informed and believes that she is the rightful owner of the  
6 master recording and is entitled to the profits made from *Mickey*, or in the alternative an  
7 accounting and payment of royalties.

8 58. On or about February 14, 2012, R&T released “*Mickey 30<sup>th</sup> Anniversary EP*”  
9 without obtaining permission from Toni Basil, who had put Defendants on notice of her  
10 claim of ownership in the copyright of *Mickey*.

11 59. On March 15, 2012, the USDC-NY Court determined the complaint filed in  
12 case number 11-CIV-5757-JFK lacked subject matter jurisdiction because Basil asserted  
13 jurisdiction solely based on the Declaratory Judgment Act, which the Court determined did  
14 not confer subject matter jurisdiction and dismissed the case without prejudice.

15 60. This complaint follows and asserts the following claims for relief – (1) Fraud  
16 or Deceit; (2) Misappropriation of Likeness in Violation of California Civil Code §3344;  
17 (3) Misappropriation of Name and Likeness in Violation of Common Law; (4) Unjust  
18 Enrichment; (5) Involuntary Trust; (6) Rescission based on Fraud and/or Lack of  
19 Consideration; (7) Violation of Business & Professions Code § 17200, *et seq*; (8) Breach  
20 of Contract; (9) Accounting; and (10) Declaratory Relief.

## 21 22 **FIRST CLAIM FOR RELIEF**

### 23 **Fraud or Deceit**

#### 24 **Against All Defendants**

25 61. Plaintiff realleges and incorporates here the allegations contained in  
26 paragraphs 1 through 60 above.

27 62. Every representation made by Defendants, and each of them, regarding the  
28 chain of title to *Mickey* and the legitimacy of the licensing as alleged in paragraphs above



1 were false.

2 63. Said false representations were known by Defendants, and each of them, to  
3 be false at the time they were made. The truth was that at the time false representations  
4 were made, Defendants had no lawful rights to *Mickey* yet they had been exploiting Toni  
5 Basil's name, likeness and voice to generate income from the very lucrative master  
6 recording and music video of *Mickey*, without Plaintiff's knowledge or permission.

7 64. Said false representations were made with the intent to deceive and defraud  
8 the Plaintiff, actual and potential commercial purchasers of *Mickey* and the public.

9 65. Plaintiff actually and justifiably relied on said false representations and was  
10 damaged as a direct and proximate result of said false representations in an amount  
11 according to proof.

12 66. Said false representations were made with oppression, fraud and malice.

## 13 14 **SECOND CLAIM FOR RELIEF**

### 15 **Misappropriation of Likeness in Violation of California Civil Code §3344**

#### 16 **Against All Defendants**

17 67. Plaintiff hereby incorporate all paragraphs above as though set forth fully  
18 herein.

19 68. Defendants have violated the rights of Plaintiff Toni Basil by knowingly and  
20 intentionally using her photographs, likeness and voice without her prior consent, for  
21 commercial purposes gain and profit directly in connection with manufacturing, offering  
22 for sale, selling, advertising, marketing, and distributing performances of *Mickey*.

23 69. The use of the photographs of Plaintiff, in connection with manufacturing,  
24 offering for sale, and selling, advertising, marketing, and distributing performances of  
25 *Mickey*, has directly resulted in substantial and ongoing harm and injury to Basil in that,  
26 among other things, her photographs, likeness and voice are falsely associated with  
27 commercial products licensed and sold by Defendants.

28 70. As a direct and proximate result of the conduct of Defendants, Plaintiff Toni

1 Basil is statutorily entitled to the recovery of both her actual damages and general and  
2 compensatory damages related to Defendants' manufacturing, offering for sale, and selling,  
3 advertising, marketing, and distributing performances of *Mickey*, the precise amount of  
4 which shall be established at trial according to proof but which, Plaintiff is informed and  
5 believes and based thereon allege, exceeds \$1,000,000.00.

6 71. As a further direct and proximate result of Defendants' knowing, willful, and  
7 conscious disregard for the rights of Plaintiff, Defendants are guilty of oppression, fraud,  
8 and malice, entitling Plaintiff to an award of punitive damages.

9 72. Plaintiff is informed and believes and based thereon allege that Defendants  
10 have continued to manufacture, offer for sale, and sell, advertise, market, and distribute  
11 performances of *Mickey*. Unless and until Defendants are enjoined and restrained by order  
12 of this Court, Plaintiff will continue to suffer great and irreparable injury, in that her  
13 photographs, likeness and voice will be falsely associated with commercial products  
14 licensed and sold by Defendants. Plaintiff has no adequate remedy at law for such injury.  
15

### 16 **THIRD CLAIM FOR RELIEF**

#### 17 **Misappropriation of Name and Likeness in Violation of Common Law**

#### 18 **Against All Defendants**

19 73. Plaintiff hereby incorporate all paragraphs above as though set forth fully  
20 herein.

21 74. Defendants have violated Plaintiff Toni Basil's exclusive rights by  
22 knowingly and intentionally using Plaintiff's photographs, likeness and voice without her  
23 prior consent, for commercial purposes, gain and profit, in connection with manufacturing,  
24 offering for sale, and selling, advertising, marketing, and distributing performance of  
25 *Mickey*.

26 75. The use of the photographs of Plaintiff, in connection with manufacturing,  
27 offering for sale, and selling, advertising, marketing, and distributing performances of  
28 *Mickey*, has directly resulted in substantial and ongoing harm and injury to Basil in that,

1 among other things, her photographs, likeness and voice are falsely associated with  
2 commercial products licensed and sold by Defendants.

3 76. As a direct and proximate result of the conduct of Defendants, Plaintiff Basil  
4 is entitled to the recovery of both her actual damages and general and compensatory  
5 damages related to Defendants' manufacturing, offering for sale, and selling, advertising,  
6 marketing, and distributing the performance of *Mickey*, the precise amount of which shall  
7 be established at trial according to proof but which, Plaintiff is informed and believes and  
8 based thereon alleges, exceeds \$1,000,000.00.

9 77. As a further direct and proximate result of Defendants' knowing, willful, and  
10 conscious disregard for the rights of Plaintiffs, Defendants are guilty of oppression, fraud,  
11 and malice, entitling Plaintiffs to an award of punitive damages.

12 78. Plaintiff is informed and believes and based thereon alleges that Defendants  
13 have continued to manufacture, offer for sale, and sell, advertise, market, and distribute  
14 performances of *Mickey*. Unless and until Defendants are enjoined and restrained by order  
15 of this Court, Plaintiff will continue to suffer great and irreparable injury, in that her  
16 photographs, likeness and voice will be falsely associated with commercial products  
17 licensed and sold by Defendants. Plaintiff has no adequate remedy at law for such injury.

#### 18 19 **FOURTH CLAIM FOR RELIEF**

##### 20 **Unjust Enrichment**

##### 21 **Against All Defendants**

22 79. Plaintiff hereby incorporate all paragraphs above as though set forth fully  
23 herein.

24 80. By means of the fraud and other acts alleged above, Defendants, and each of  
25 them, acquired money and property, with the knowledge of said fraudulent and wrongful  
26 acts, including specifically proceeds from the manufacturing, offering for sale, and selling,  
27 licensing, advertising, marketing, and distributing the performance of *Mickey* and the  
28 profits and dividends generated by such sales and licensure, such that Defendants hold

1 such profits and dividends in constructive trust for Plaintiff and/or must make restitution to  
 2 Plaintiff in a sum sufficient to deprive Defendants of all unjust enrichment derived from  
 3 the sale and licensure of *Mickey*, including but not limited to all proceeds and profits  
 4 derived in the United States, Canada and worldwide.

## 5 6 **FIFTH CLAIM FOR RELIEF**

### 7 **Involuntary Trust**

#### 8 **Against All Defendants**

9 81. Plaintiff hereby incorporate all paragraphs above as though set forth fully  
 10 herein.

11 82. By means of fraud, accident, mistake, undue influence, the violation of trust  
 12 or other wrongful acts alleged above, Defendants, and each of them, acquired money and  
 13 property, including specifically revenue generated from the sales and licensure of *Mickey*  
 14 and all proceeds and profits derived from said sales and licensure in the United States,  
 15 Canada and worldwide and wrongfully retained said money and property such that they  
 16 became involuntary trustees of such money and property for the benefit of Plaintiff  
 17 pursuant to California Civil Code §§2223 and 2224.

## 18 19 **SIXTH CLAIM FOR RELIEF**

### 20 **Rescission based on Fraud and/or Lack of Consideration**

#### 21 **Against Lait, Stillwater, and Solomon**

22 83. Plaintiff hereby incorporate all paragraphs above as though set forth fully  
 23 herein.

24 84. While the Controlling Agreement by which Plaintiff granted any rights in  
 25 and to *Mickey* was fraudulently and/or ineffectively transferred, Plaintiff has given and by  
 26 this complaint hereby gives, notice of rescission and hereby offers to restore everything of  
 27 value received from Defendants Lait, Solomon and Stillwater conditioned on simultaneous  
 28 restoration to Plaintiff of all of the sound recordings, music videos, musical compositions,

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1 US and worldwide copyrights featuring the performances of Toni Basil and any rights  
2 thereto in *Mickey*.

3 85. Plaintiff is entitled to rescission of any agreements that may exist that  
4 purport to control *Mickey*, based on fraud and lack of consideration. Lait, Solomon and  
5 Stillwater have refused to account or make payments in accordance with the Controlling  
6 Agreement assuming the Controlling Agreement is even valid.

7 86. Lait and all of his alter egos never had any intention of performing under the  
8 Controlling Agreement. Lait, through his alter ego Radialchoice, promised that he would  
9 perform under the Controlling Agreement as required. But for the representations and  
10 promises made to Plaintiff by Lait, Plaintiff would not have entered into or consummated  
11 the Controlling Agreement.

12 87. The representations and concealments made by Lait were made with the  
13 intent to deceive Plaintiff and to induce her to enter into and consummate the Controlling  
14 Agreement.

15 88. Plaintiff reasonably relied on Lait's oral and written representations when  
16 entering into the Controlling Agreement.

17 89. Plaintiff hereby alleges that had she had knowledge of the falsity of Lait's  
18 intentions, she would not have entered into the Controlling Agreement.

19 90. As a proximate result of the alleged conduct by Lait, Plaintiff is entitled to  
20 rescind the Controlling Agreement and to recover any consideration, including but not  
21 limited to any and all rights granted in and to all of the sound recordings, music videos,  
22 musical compositions, US and worldwide copyrights featuring the performances of Toni  
23 Basil and any rights thereto in *Mickey*.

24 91. Plaintiff is entitled to restitution of her costs, expenses and damages incurred  
25 as a result of actions of Defendants and each of them in order to restore the parties to their  
26 respective positions as they existed prior to said transactions. The amount required for  
27 such rescission and restitution is unknown and will be according to proof at trial.\

28 92. Defendant Lait's actions as described above were willful, oppressive and in

conscious disregard of Plaintiff's rights in and to *Mickey*. Additionally, Defendant has refused to cease and desist from such prohibited activities despite Plaintiff's demand to discontinue his fraudulent, unfair and unlawful activities. These additional facts warrant an award of punitive and exemplary damages in an amount to sufficiently punish and deter similar conduct from others engaging in the same wanton and willful bad acts.

## SEVENTH CLAIM FOR RELIEF

### Violation of Business & Professions Code § 17200, et seq.,

#### Against All Defendants

93. The preceding paragraphs of this Complaint are realleged and incorporated by reference.

94. Business and Professions Code § 17200 *et seq.*, prohibits acts of unfair competition which shall mean and include any "unlawful, unfair, or fraudulent business act or practice." Plaintiff alleges that at all relevant times Defendants, and each of them, have engaged in unfair business practices in California by utilizing the illegal, unfair fraudulent and/or unlawful practices outlined above, including causing Plaintiff's to have her name, voice, photograph and likeness continuously exploited without her consent or the authority to do so in complete disregard for Ms. Basil's financial or emotional well being.

95. Defendants' business acts and practices are unlawful and violate Civil Code §§2223, 2224 and 3344. Furthermore, Defendants' marketing, advertising, promotion, offering for sale, and sale of *Mickey* constitute unfair business practices, unfair competition, and provide an unfair advantage over Defendants' competitors that actually account and pay royalties to artists.

96. Defendants' actions entitle Plaintiff to seek the remedies available pursuant to Business and Professions Code §17200 *et seq.* in the form of restitution and injunctive relief as authorized under Business and Professions Code §17203.

97. Plaintiff seeks full restitution and disgorgement of said monies from Defendants, as necessary and according to proof, to restore any and all monies, including



1 interest, withheld, acquired or converted by Defendants by means of the unfair practices  
 2 complained of herein. Plaintiff further seeks the appointment of a receiver as necessary.  
 3 Plaintiff also seeks an injunction and declaratory relief to remedy and prevent Defendants'  
 4 improper activities and practices.

5 98. Plaintiff also requests relief as described more fully below.

## 6 7 **EIGHTH CLAIM FOR RELIEF**

### 8 **In the Alternative: Breach of Contract**

#### 9 **Against Lait, Stillwater and Solomon**

10 99. Plaintiff incorporates herein by reference, to the extent applicable, each and  
 11 every allegation contained hereinabove.

12 100. Basil has performed any and all obligations to be performed on her part  
 13 pursuant to the terms of the Controlling Agreement.

14 101. Defendants, Lait, Stillwater, Solomon and any of their predecessors in the  
 15 Chain of Title and each of them, have breached the Controlling Agreement by, among  
 16 other things: (i) failing to accurately account and pay Basil her full and complete share of  
 17 Artiste Royalties; (ii) failing to accurately account and pay to Basil her full and complete  
 18 share of Third Party License income; (iii) coupling Basil's master recordings with the  
 19 master recordings of other artists without first obtaining Basil's authority for such use; and  
 20 (iv) including Basil's master recordings in television shows, theatrical films and/or  
 21 television/radio commercials and/or video games without first obtaining Basil's authority  
 22 for such use;

23 102. By virtue of the above, Basil has been damaged in an amount unknown to be  
 24 determined at trial.

## 25 **NINTH CLAIM FOR RELIEF**

### 26 **Accounting**

#### 27 **Against Lait, Solomon and Stillwater**

28 103. Plaintiff incorporates herein by reference, to the extent applicable, each and

every allegation contained hereinabove.

104. Defendants, Lait, Solomon and Stillwater and continuously fail to fully and completely account and pay Basil for royalties derived by *Mickey* as set forth in the Controlling Agreement (assuming the Contract is deemed to be in force), Artiste Royalties and Third Party License Income from Defendants' direct manufacture and third party licensing in an amount unknown to Plaintiff at this time.

105. Upon an accounting by Defendants to Plaintiff there will be found to be due to Basil large sums of monies, the amount of which are not known to her at this time.

106. Heretofore and prior to the commencement of this action, Basil has duly demanded of Defendants an accounting of such monies belonging to her; however, Defendants have failed, omitted and refused to render, and have never rendered, such an accounting, nor paid any such monies in full, to Basil.

107. Basil has no adequate remedy at law.

## **TENTH CLAIM FOR RELIEF**

### **Declaratory Relief**

#### **Against All Defendants**

108. Plaintiff incorporates herein by reference, to the extent applicable, each and every allegation contained hereinabove.

109. An actual controversy and dispute has arisen over the rights and ownership of the sound recordings, musical compositions and other performances on music video of *Mickey*.

110. Plaintiff seeks a declaration and judicial determination that none of the Defendants herein have any rights to any of the sound recordings, musical compositions and other performances on music video of *Mickey*.

### ***PRAYER FOR RELIEF***

WHEREFORE, Plaintiff prays for judgment as follows:

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1           A.     That this Court award compensatory damages including but not limited to  
2 profits lost due to Defendants' conduct and other consequential damages, in an amount  
3 according to proof;

4           B.     That this Court award punitive damages in an amount appropriate to punish  
5 Defendants, to deter others from engaging in such conduct, and to set an example of  
6 Defendants;

7           C.     That this Court award the greater of actual damages according to proof or  
8 statutory damages under Civil Code §3344;

9           D.     That this Court award emotional distress damages;

10          E.     That this Court enters a judicial declaration that Defendants have no rights to  
11 the sound recordings, musical compositions, music video or other materials embodying  
12 *Mickey*;

13          F.     That this Court award a preliminary and permanent injunction enjoining  
14 Defendants and their respective officers, agents, servants, employees, and attorneys, and  
15 all persons in active concert or participation with each or any of them, from directly  
16 committing, aiding, encouraging, enabling, inducing, causing, materially contributing to ,  
17 or otherwise facilitating the unauthorized reproduction, sale, licensing or distribution of  
18 copies of *Mickey*;

19          G.     That this Court order Defendants to account to Plaintiff;

20          H.     That this Court order Defendants to disgorge all profits and proceeds earned  
21 relative to the exploitation of *Mickey*;

22          I.     That this Court rescinds any contract;

23          J.     That this Court order Defendants to turn over and deliver all of the Toni  
24 Basil Masters, including *Mickey* to Plaintiff;

25          K.     That this Court impose a constructive trust on all property acquired by  
26 Defendants as a result of their malfeasances;

27          L.     That this Court award Plaintiff's actual costs incurred for this action,  
28 including, but not limited to, reasonable attorneys' fees;

1 M. That this Court award of prejudgment and post judgment interest on all  
2 sums;

3 N. That this Court order such further relief as justice may require, or as this  
4 Court deems necessary.

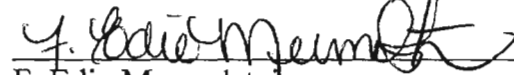
5  
6 **DEMAND FOR JURY TRIAL**

7 Plaintiff hereby demands a jury trial for all issues so triable.

8  
9 Dated: June 14, 2012

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10 By:



11 F. Edie Mermelstein

12 *Attorneys for Plaintiff*  
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**EXHIBIT 1**

## ACKNOWLEDGMENT

State of California  
County of Los Angeles

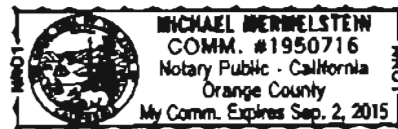
On January 16, 2012 before me, Michael Mermelstein  
(insert name and title of the officer)

personally appeared Antonia Christina Basilotta  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) are  
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in  
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the  
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing  
paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Signature] (Seal)



## OPTIONAL INFORMATION

*Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this  
Acknowledgment Form to an unauthorized document and may prove useful to persons relying on the attached document.*

### DESCRIPTION OF ATTACHED DOCUMENT

This certificate is attached to a document titled

This Agreement

containing 15 pages, and dated 8-31-1979

### Additional Information

#### Method of Affiant Identification:

Proved to me on the basis of satisfactory evidence:

☒ Form(s) of identification COL  
☐ Credible Witness(es) -

Notarial event is detailed in notary journal on  
PAGE # 3 Entry # 8

#### OTHER:

☒ Affiant's Thumbprint





T H I S                      A G R E E M E N T

is made the 31<sup>st</sup> day of August

One thousand nine hundred and seventy-nine BETWEEN  
RADIALCHOICE LIMITED whose registered office is at  
25/27 Oxford Street London W.1. England (hereinafter  
called "the Company") of the one part and TONI BASIL  
of

(hereinafter called "the Artist") of the other part

WHEREBY IT IS AGREED :-

1. THE Artist hereby undertakes with the Company  
and agrees during the period commencing with the date  
hereof and expiring six (6) months hereafter (hereinafter  
called "the first period of the Term") to render her  
services to the Company for the world (hereinafter  
called "the Territory") as follows :-

(a) to render her services to the best of  
her skill and ability in recording three (3) Titles so  
that the Company may release a first-class single  
record

(b) the said compositions shall be suitable  
for release as a single record shall not contain  
defamatory or obscene material and the Company shall  
be able to obtain a mechanical licence at normal or  
statutory rates

2. THE Artist hereby agrees that all master  
recordings hereunder shall be and remain the property  
of the Company for perpetuity and the Company is  
hereby granted for perpetuity throughout the world

*Handwritten signature*

- 2 -

all rights of copyright and all other rights in and to the master recordings hereunder the performances embodied therein including the sole and exclusive rights as follows :-

(a) the right to manufacture and sell and otherwise exploit records derived from the master recordings without restriction as to the quantity and make authorise or prohibit such manufacture sale and exploitation anywhere in the Territory under any such trademarks trade names or labels as it may be in its absolute discretion decide

(b) the right to sell lease license or otherwise dispose of any of the master recordings hereunder or recordings embodied therein

(c) the right to perform and to authorise other parties to perform the records derived from the master recordings for all and any purposes including but not by way of limitation broadcasting thereof by radio and television video recording film and video-disc

(d) the right to authorise and/or prohibit the use of the names pseudonyms or professional names facsimile signatures and photographic or other likenesses of the Artist as well as any biographical information concerning the Artist in connection with the records hereunder

2  
15



- 3 -

3. THE Artist shall render recording services exclusively for the Company during the Term and in the Territory and shall not in any circumstances during the Term:-

(a) render such recording services to any other firms or companies in her own name or under any other including not only the name and pseudonym or professional name she now uses but also any she may intend to use in the future

(b) without the written consent of the Company allow her name pseudonym or professional name as above mentioned as a recording artist to be used in connection with any record label covering printing advertising and publicity connected with record sales unless they belong to the Company

(c) record or knowingly allow performances by herself to be recorded either alone or accompanied by any means and for any person firm or company other than the Company for the purpose of the manufacture sale and distribution of records in any country of the Territory

(d) incur or purport to incur any expenditure or costs of any kind whatsoever on behalf of the Company without the previous written consent of the Company

4. (a) THE Company shall bear the studio musicians and all other costs incurred in making the recordings hereunder pursuant to a budget agreed between the parties which costs shall include such fees and advances which are payable to any individual producer of the records hereunder all of which costs shall be treated as non-returnable advance payments on account of the royalties due to be paid to the

- 4 -

Artist under this Agreement

(b) In the event that the Company decides that any master recording is not of a satisfactory technical ~~or artistic~~ <sup>11382</sup> standard the Company (without prejudice to its other rights) shall be entitled to require that such master recording be re-recorded until such master recording attains the required standard as aforesaid

5. (a) THE Artist shall attend with her consent (not to be unreasonably withheld) and upon reasonable notice any photographic and/or publicity sessions for the purpose of permitting the Company to take such photographs as the Company may require in relation to the launching publicity and marketing for the distribution of the records hereunder without any payment therefor

(b) Periodically during the Term the Artist shall appear in public <sup>11382</sup> promotions such as press receptions radio and television programmes and films as shall be <sup>reasonably</sup> requested by the Company

6. THE Artist shall not for a period of five (5) years after the Term of this Agreement shall have expired re-record any of the Titles included in any of the master recordings hereunder

7. UNTIL such time as the aggregate of the total of the royalties earned on records sold hereunder shall have exceeded the total of the recording and other costs charged by the Company pursuant to Clause 4 hereof and any advance payable hereunder the Artist shall not be entitled to be paid any royalties hereunder

8. PROVIDED that the Artist shall have performed all her obligations hereunder in accordance with this <sup>11382</sup>



- 5 -

Agreement the Company agrees to pay to the Artist a royalty in respect of records sold by or through the Company hereunder embodying the performances of the Artist hereunder at the following rate:-

(a) with respect to the first one hundred thousand (100,000) copies of any record sold in any country of the Territory (two hundred and fifty thousand (250,000) copies in the United States of America) at the rate of SEVEN PER CENT (7%) on sales in such country

(b) with respect to the next one hundred thousand (100,000) copies of such record sold in such country (two hundred and fifty thousand (250,000) copies in the United States of America) at the rate of EIGHT PER CENT (8%)

(c) with respect to all copies sold thereafter in such country at the rate of NINE PER CENT (9%) PROVIDED THAT if the Company is paid a royalty with respect to any country by its licensees in excess of Sixteen per cent (16%) the above mentioned rates for such country shall be increased by ONE PER CENT (1%)

9. (a) ALL royalties payable hereunder shall be determined on 90% or 100% (as the Company is accounted to) of records sold by the Company or its licensees and paid for the said percentage or amount being computed on the basis of the recommended retail price of such records (as determined by the Company's licensees in accounting to the Company) after deduction of taxes and container charges (as calculated by the Company's licensees)

(b) (i) The royalty payable with respect to records sold outside the United Kingdom shall be computed at the election of the Company in the national currency of the country of

- 6 -

manufacture or sale (as aforesaid) at the rate of exchange in effect at the time of payment to the Company. The Company shall use its best endeavours to remit foreign royalties to the United Kingdom where possible. Such royalties less any taxes shall be payable to the Artist only after payment for sales to which such royalties are applicable have been received by the Company in the United Kingdom. In the event that the Company is unable to or does not receive payment in the United Kingdom then at the election of the Company shall deposit to the account of the Artist the royalties payable to the Artist hereunder with a depository selected by the Artist and located in the country of payment. Deposit and notice thereof to the Artist shall discharge the royalty obligation of the Company for record sales to which such royalties are applicable.

(ii) With respect to records sold through record clubs or any other direct to consumer operations the royalty shall be at one-half ( $\frac{1}{2}$ ) of the rate otherwise applicable and the royalty base shall be the actual selling price to the consumer of each such record sold (less the Company's said container charges and sales value added and other taxes if any) of 90% or 100% (as appropriate) of records so sold.

(iii) With respect to records sold on budget or low priced labels such labels being defined as those which bear a retail list price of less than three-pounds (£) of the retail price (in the country of sale) of records of:



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the same designation issued by the Company or its licensees on prime label categories or their equivalent the royalty shall be at one-half ( $\frac{1}{2}$ ) of the rate otherwise applicable (iv) With respect to records sold embodying Titles recorded by the Artist hereunder coupled with other Titles (hereinafter called "compilation albums") the royalty shall be at that proportion of the rate otherwise applicable which the number of Titles embodying performances recorded by the Artist hereunder bears to the total number of Titles recorded by other royalty earning artists on such record provided that in the case of compilation albums marketed by third parties through television advertising the royalty shall be one-half ( $\frac{1}{2}$ ) of the rate otherwise applicable

(v) With respect to records sold to any government its sub-divisions departments and agencies to military exchanges and to educational institutions and libraries the royalty shall be one-half ( $\frac{1}{2}$ ) of the rate otherwise applicable

(vi) With respect to records sold to commercial purchasers for use by them as premiums promotional items sales incentives or for similar purposes the royalty shall be at one-half ( $\frac{1}{2}$ ) of the rate otherwise applicable and the royalty base shall be the actual selling price to such purchasers (less the Company's said container charge as aforesaid and less sales value added and other taxes if any) of ninety per cent (90%) of records so sold

11/5

- 8 -

(vii) No royalty shall be payable on records distributed free as samples or for the purpose of publicity or sold as discontinued goods

10. (a) THE Company shall make up and render to the Artist accounts of the royalties payable hereunder at the 30th June and 31st December in each year relating to all records hereunder which were sold during the relevant accounting period and when rendering the relevant account shall pay to the Artist any amount thereby shown to be remaining due subject to Clause 7 hereof. Each royalty statement shall be made up within ninety (90) days of the end of the accounting period to which it relates. Each Statement shall become final and binding unless within two (2) years of the rendering thereof the Artist advises the Company in writing of any objection to it setting forth the basis for objection

(b) The Artist shall be entitled to appoint at the Artist's expense an independent chartered accountant to inspect at the premises of the Company those books of the Company which relate specifically to sales made by the Company hereunder during business hours twice each year at the expense of the Artist. The books of the Company may only be inspected with respect to any accounting period during a period of two (2) years computed from the date upon which the relevant statement was rendered

(c) The Company shall be entitled to maintain reserves on account of records returned or exchanged and to make adjustments in royalty payments subsequently based on actual records returned or exchanged. In the event reserves are insufficient to cover records

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returned or exchanged the Company will charge the applicable royalty account for any such excess returns or exchanges. In any event any and all such reserves shall not exceed the reserves maintained by the Company's respective licensees.

(d) Notwithstanding anything in this Agreement contained to the contrary the percentage reductions in royalty rates contained in Clause 9(b) and the provisions of Clause 10(c) shall in no event be more prejudicial to the Artist than the corresponding clauses in the Company's contracts with its licensees are to the Company.


11. (a) THE rights and privileges to which the Artist is entitled by virtue of this Agreement may not be assigned, disposed of, charged or transferred by the Artist.

(b) The Company may assign this Agreement together with its rights and obligations to such third party as it may elect with the Artist's consent in writing PROVIDED THAT the Company may so assign without consent to any company owned or controlled by Simon Lait or in which the said Simon Lait holds or shall hold a majority shareholding interest.

12. THE Artist warrants, undertakes and agrees:-

(a) that she has not entered nor will enter in any agreement with a third party which in any way whatsoever conflicts or is incompatible with any of the terms of this Agreement or derogates from or affects any rights granted to the Company hereunder.

(b) that she will observe all requirements of unions having jurisdiction in connection with the recording of master recordings.



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(c) to give the consents required by the Performers' Protection Acts 1958-1972 and the execution hereof shall be deemed to be such consent

13. THE Artist shall co-operate fully in any controversies or litigation which may be required to prevent the distribution of records not authorised pursuant to the terms of this Agreement or to prevent the use of the Artist's name facsimile signature likeness biographical material and other identification in contravention of the rights granted to the Company hereunder. The Company may take such steps of instituting such legal action or proceedings in the Company's name or in the Artist's name or in their joint names as the Company may deem suitable. The Artist hereby appoints the Company as lawful attorney-in-fact to do all things permitted or contemplated pursuant to the terms hereof. Nothing herein shall be construed as a limitation on the warranties and indemnities made to the Company herein

14. (a) THE initial Contract period of the Term shall be the six-month period referred to in Clause 1 hereof. The Company shall pay to the Artist on execution hereof by way of non-returnable advance on account of royalties hereunder the sum of SEVEN THOUSAND FIVE HUNDRED UNITED STATES DOLLARS (\$7,500). Such period may be extended by the Company by prior written notice to such effect for a further Contract period of six months upon the same terms and conditions save that there shall be no further advances payable other than as herein below specified and the Company shall be entitled to require the Artist to record a long-playing record instead of three (3) Titles (which at the election of the Company shall include the three (3) Titles or any of them) whereupon the Company shall pay the Artist



- 11 -

a non-returnable advance on account of royalties of SEVEN THOUSAND FIVE HUNDRED UNITED STATES DOLLARS (\$7,500) upon delivery of technically satisfactory masters for such long-playing record in the second six-month period

(b) The Artist hereby grants to the Company two (2) further separate and successive options (to be exercised by prior written notice to such effect) to extend the above-mentioned periods by two (2) further separate and successive Contract periods of one (1) year each upon the same terms and conditions save as in this Clause specified. In each such period the Artist shall record a minimum of one (1) new long-playing record and a maximum of two (2) new long-playing records as the Company shall request. The advance payable with respect to each such record in the first such annual period shall be TWENTY-FIVE THOUSAND UNITED STATES DOLLARS (\$25,000) and in the second such annual period THIRTY-FIVE THOUSAND UNITED STATES DOLLARS (\$35,000) all such advances to be paid as to one-half ( $\frac{1}{2}$ ) on commencement of recording and the balance on the delivery of technically satisfactory masters for each such record.

15. THIS Agreement sets forth the entire agreement between the parties with respect to the subject matter hereof and no modification amendment waiver termination or discharge of this Agreement or any provision thereof shall be binding upon either party unless confirmed by a written instrument signed by the parties. No waiver of any provision of or default under this Agreement shall affect either party's rights thereafter to enforce any provision or to exercise any right or remedy hereunder. This Agreement and any and all

- 12 -

extensions and/or modifications thereof shall be governed by the laws of England

16. ALL notices and statements hereunder or in connection herewith shall be in writing and shall be addressed as follows :-

To: the Artist at the address of the Artist above mentioned

To: the Company at 17 Nelson Road Greenwich London S.E.10.

Attention: Mr. Simon Lait

or such other address as the respective parties hereto may designate in writing

17. FOR the purposes of this Agreement the following words shall have the meanings respectively set out opposite them if not inconsistent with the subject or context:-

(a) "MASTER RECORDING" : The words "master recording(s)" mean the original material object in which sounds with or without visual images are fixed by any method now known or later developed and from which sounds with or without visual images can be perceived reproduced or otherwise communicated either directly or with the aid of a machine or device

(b) "RECORDS" : The word "record(s)" means any reproduction of a master recording in any form now or later developed in which sounds with or without visual images can be perceived reproduced or otherwise communicated either directly or with the aid of a machine or device and includes the material object in which sounds with or without visual images are fixed including but not limited to disc records sound tracks film tape cartridges and other devices

8  
11



- 13 -

(c) "RECORDS SOLD" : The words "Sales" "records sold" and "record sales" mean such records which are produced sold and paid for hereunder and in respect of which the Company is paid royalties pursuant to the Company's arrangements with its licensees and distributors

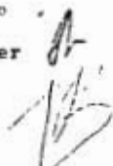
(d) "MATERIAL" : The word "material" means any work or series of musical instrumental spoken or other sounds in combination or otherwise capable of fixation on a record whether dramatic literary musical or otherwise and whether performed by the Artist vocally instrumentally or otherwise or in combination thereof

(e) "PERFORMANCE" : The words "performance" and "perform" mean the Artist's rendition of services in recording material for a master recording and/or a record as a soloist or as a member of a group and whether as a vocalist instrumentalist leader or musician

(f) "TITLE" : The word "Title" means musical composition whether vocal or non-vocal performed or to be performed by the Artist pursuant to this Agreement

(g) "CONTRACT PERIOD" : The words "Contract period" shall mean whichever shall be the longer of the appropriate period specified in Clause 14 hereof or a period of four (4) months from the completion of artistically and technically satisfactory master recordings for the Artist's recording commitment in such period PROVIDED THAT no Contract period shall exceed a period of TWO (2) years

(h) "TERM" : The word "Term" means the first period set forth in Clause 1 hereof together





- 14 -

with any further period as has been provided for hereinbefore by the exercise of any options by the Company

18. NOTWITHSTANDING anything to the contrary, agreed between the parties hereto that:

*TD* All visual material including but not limited to album design must have the prior approval of the Artist, *and which approval shall not be unreasonably withheld.*

(b) As a condition precedent to Company's right to exercise their option herein, Company shall commercially release masters in the territory.

(c) In no event will Company, its licensees or assigns produce a video tape or disc featuring the masters or any of them without the prior approval of Artist, which approval will not be unreasonably withheld.

(d) Upon commencement of recording the first album (that is after completion of the initial three titles) Company will advance Artist the \$7500.00 mentioned in Paragraph 14(a) hereof.

(e) Company will make available "up to" \$7000.00 to be paid upon request by Brian Avnet upon presentation of a pro forma invoice of said rehearsal/ROUTING of musical titles to be contained in the album and Company's reasonable approval thereof. Such advance shall be considered recoupable as part of the recording budget.

(f) The restriction contained in Paragraph 6 *hereof shall apply only after masters have been commercially released in the United States and Canada or Japan or the United Kingdom or Germany, Austria, Switzerland, Benelux, France, or any other country in which the Company is doing business.*

- 15 -

(g) Each L.P. or single recording hereunder will be released in each part of the territory hereof within six months of delivery to Company, provided that in the event Company fails to release said record within ninety days after notice from Artist to Company served upon the expiration of such six-month, preceding period specifying that part or those parts where a release is desired, Artist may release the record in such unreleased parts through a third company whereupon the terms of this agreement shall apply in all respects save that after recoupment (if at all) of the applicable L.P. advance and recording costs by Company from the royalties due hereunder to the Artist in respect to the record concerned the royalty rate will be varied so that the Artist will receive the entire royalty directly from said third party less a two percent royalty which shall be paid to the Company. In any event, Company's underlying rights in the masters will not be sold, licensed or leased to such third party for a longer period than Company normally sells, leases or licenses its masters.

I N      W I T N E S S whereof the parties hereto have entered into this Agreement the day and year first above written

SIGNED by  
for and on behalf of  
RADIALCHOICE LIMITED  
in the presence of:-

TOM BASIL in the  
presence of:-

*[Handwritten signatures and initials]*  
132

**EXHIBIT 2**

## ACKNOWLEDGMENT

State of California  
County of Los Angeles

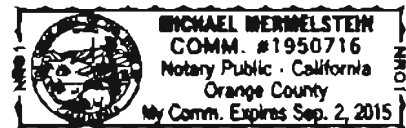
On January 16, 2012 before me, Michael Mermelstein  
(insert name and title of the officer)

personally appeared Antonia Christina Basilotta  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in  
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the  
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing  
paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Signature] (Seal)



## OPTIONAL INFORMATION

*Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this Acknowledgment Form to an unauthorized document and may prove useful to persons relying on the attached document.*

**DESCRIPTION OF ATTACHED DOCUMENT**  
This certificate is attached to a document titled

Agreement

containing 6 pages, and dated 10-1-1980

### Additional Information

Method of Affiant Identification:

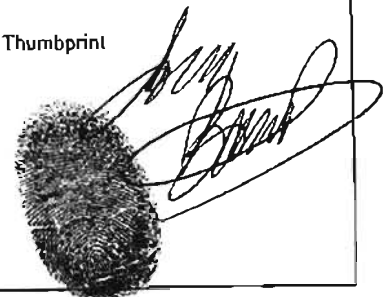
Proved to me on the basis of satisfactory evidence:

- ☒ Form(s) of identification CDL  
☐ Credible Witness(es)

Notarial event is detailed in notary journal on  
PAGE # 5 Entry # 1

OTHER:

☒ Affiant's Thumbprint



AGREEMENT

Reference is hereby made to that certain recording Agreement (hereinafter "Agreement") made August 31, 1979 by and between RADIALCHOICE LIMITED (in the Agreement and hereinafter referred to as "Company") and TONI BASIL (in the Agreement and hereinafter referred to as "Artist").

WHEREAS:

Company and Artist have agreed to amend certain provisions in the Agreement and as hereinafter appearing.

WHEREBY IT IS AGREED:

1. Pursuant to paragraph 1(a) of the Agreement, Company has heretofore recorded three (3) titles featuring the recorded performances of the Artist. Said titles were recorded with a view to Company releasing a first class single record (hereinafter "Single"). Pursuant to paragraph 18(b) of the Agreement, Company, as a condition precedent to its rights to exercise the option in paragraph 14(a) of the Agreement appearing, was obligated to commercially release master recordings featuring the Artist in the Territory. It is hereby agreed that notwithstanding the provisions of paragraph 1(a), 18(b) and 18(g) of the Agreement, Company shall be under no obligation to so release the Single. Notwithstanding the foregoing, Company shall, subject to the provisions of paragraph 14 of the Agreement, have the right to include the Single on any long playing record which constitutes the first long playing record recorded by Artist under the Agreement. Said long playing record shall be recorded wholly in accordance with the provisions of the Agreement and shall consist of masters technically satisfactory to Company for the manufacture of long playing records, and shall be of a duration, unless Company otherwise directs, of not less than twenty-five minutes (25). Further, and notwithstanding the provisions of paragraph 18(g) of the Agreement, Artist shall not have the right to release the Single; however, in the event that Company causes Artist to record a long playing record and incorporates thereon the Single, and Company fails to release such long playing record in the "release territories" as provided in paragraph 4 hereof, Artist shall be entitled to release such long playing record and/or the Single in accordance with the provisions of said paragraph 18(g).

2. Company has heretofore financed and produced a videotaped recording of the Artist incorporating thereon certain of the Artist's performances (hereinafter "videotape"). Pursuant to paragraph 16(b) of the Agreement, such videotape is deemed a "record" and is subject, in all respects, to the provisions of the Agreement. Artist shall be entitled to commercially exploit the videotape on the following conditions:



(a) the manner, mode and media of such commercial exploitation shall, in each instance, be subject to Company's approval, such approval not to be unreasonably withheld.

(b) matters with reference to the commercial exploitation of the videotape shall be subject to the mutual approval of Company and Artist.

(c) copyright in and to the videotape shall vest in Company and Artist in equal shares. Company may take such steps of instituting such legal action or proceedings in its name or in Artist's name or in joint names of Artist and Company as Company may deem reasonably necessary to protect such copyright in and to the videotape. The Artist hereby appoints Company as lawful attorney in fact to do all things permitted or contemplated pursuant to the terms hereof. Net proceeds derived from the commercial exploitation of the videotape shall be divided between the parties hereto in equal shares and the Artist's share thereof shall be paid in accordance with the provisions of paragraph 10(a) of the Agreement. The expression "net proceeds" shall mean all gross monies received by Company pursuant to the commercial exploitation of the videotape less all costs and expenses paid or incurred by Company directly in connection with the production, manufacture and commercial exploitation of the videotape.

3. Notwithstanding the provisions of paragraph 18(c) of the Agreement, Company may request Artist to render her services and Artist agrees to so render her services, for the production of further videotapes embodying masters and such videotapes may, at Company's sole election, be treated as "long playing records" under the Agreement. The recording of any videotape and/or long playing record hereunder shall commence only after full consultation between Artist and Company and shall be subject to the provisions of paragraph 4 of the Agreement.

4. Company agrees to release (in the United States, Canada, United Kingdom, Germany and Japan, hereinafter called "release territories") a long playing record featuring the Artist's recorded performances within six (6) months from the date of delivery of masters recorded in all respects in accordance with the Agreement, as hereby amended. In the event that Company fails to release such long playing record in any of the release territories Artist shall have the right to terminate the Agreement in respect of such release territories where the long playing record is not so released upon giving notice in writing to the Company of her intention to so do.

\*and shall be subject, in all respects to the provisions of Paragraph 2, hereinabove set forth.

5. Artist hereby confirms that Company has timely exercised its option pursuant to paragraph 14(a) of the Agreement to extend the term hereof for a further period of six (6) months (hereinafter "first option"). Notwithstanding the foregoing, the first option shall be extended by a further period of four (4) months commencing with the date of delivery to Company by Artist of the long playing record presently being recorded by Artist, which long playing record shall consist of recorded performances of the Artist technically satisfactory and suitable in all respects for commercial exploitation by Company. Notwithstanding the provisions of paragraph 14(b) of the Agreement, it is hereby agreed that Company shall, at any time during the four (4) month period referred to above, be entitled to exercise the first of the two (2) further separate and successive options granted by paragraph 14(b) of the Agreement; such options shall be exercised by prior written notice as in said paragraph 14(b) provided.

6. Provided Company shall exercise the options in paragraph 14(b) of the Agreement, as amended, appearing, and in consideration of Company paying to Artist, within fourteen (14) days of the date hereof, the sum of Five Thousand (\$5,000.00) Dollars which sum shall be paid by Company as a non-returnable bonus and shall not be recouped by the Company from royalties payable to Artist under the Agreement, Artist hereby grants to Company two (2) further separate and successive options (hereinafter the "additional options") to extend the term of the Agreement by two (2) further separate and successive contract periods of one (1) year each. The additional options shall be exercised by Company upon the following terms and conditions:

(a) Company shall exercise the additional options by giving to Artist, in each instance, not less than thirty (30) days notice in writing prior to the expiration of the then current contract period. In addition, and at the time of giving such notice Company shall pay to Artist, in respect of its exercise of each of the additional options, the sum of Fifteen Thousand (\$15,000.00) Dollars as a non-returnable bonus, which bonus shall not be recouped by Company from royalties payable to Artist under the Agreement.

(b) In each such additional option period as aforesaid the Artist shall record a minimum of one (1) new long playing record and a maximum of two (2) new long playing records as the Company shall request. The advance payable with respect to each such record in the first additional option period shall be Eighty-Five Thousand (\$85,000.00) Dollars and the advance payable with respect to each such record in the second additional option period shall be One Hundred Thousand (\$100,000.00) Dollars; said advances shall be paid by Company as non-returnable advances on account of royalties payable by Company to Artist pursuant to the provisions of paragraph 8 of the Agreement and shall be paid as to one-half thereof on commencement of recording and the balance on delivery of technically satisfactory masters for each such record. Notwithstanding the foregoing, the advances (but not the bonuses) payable to the Artist pursuant to the provisions of this subparagraph shall be conditional upon Company achieving record sales throughout the world or not less



than Five Hundred Thousand (500,000) units (hereinafter "the minimum sales") of the long playing record recorded by the Artist immediately preceding the subject long playing record. In the event that record sales by Company as aforesaid fail to achieve the minimum sales, then the advance payable to Artist with respect to each record to be recorded by Artist in the additional option periods shall be reduced pro-rata down to a floor of Fifty Thousand (\$50,000.00) Dollars for each long playing record in the first additional option period and down to a floor of Sixty-Five Thousand (\$65,000.00) Dollars in respect of each long playing record in the second additional option period. Thus, in the first additional option period Artist shall receive an advance for each long playing record of not less than Fifty Thousand (\$50,000.00) Dollars and in the second additional option period Artist shall receive an advance for each long playing record of not less than Sixty Five Thousand (\$65,000.00) Dollars. To lend clarity to the foregoing, and by way of example only, if immediately prior to Artist recording the first long playing record in the first additional option period, the long playing record recorded by Artist in the immediately preceding contract period shall have achieved sales of Four hundred Thousand (400,000) units, the advance payable to Artist shall be reduced by one-fifth (1/5th) and shall be the sum of Seventy-Eight Thousand (\$78,000.00) Dollars.

7. Artist hereby acknowledges receipt of the sum of Seven Thousand Five Hundred (\$7,500.00) Dollars paid by Company to Artist and being the non-returnable advance on account of royalties payable by Company upon delivery of technically satisfactory masters for the long playing record referred to in paragraph 14(a) of the Agreement. Payment of this sum by Company shall not be construed as Company's acceptance of delivery of such masters in accordance with said paragraph 14(a).

8. Paragraph 10(a) of the Agreement shall be amended and supplemented as follows:

(a) Artist may, not more than once in each year of the Agreement, upon giving to Company not less than thirty (30) days notice in writing, require Company to make available for inspection those books, records and accounts of Company in respect of Company's licensing and distribution agreements relating to Artist. Artist may, at her own cost and expense, and upon giving notice as aforesaid, appoint an independent Chartered Accountant who is not at that time engaged upon another inspection of Company's accounts for any other party, to inspect such books, records and accounts so far as such relate to Artist. Such inspection shall be conducted at Company's offices as designated by Company, during normal business hours, and shall be concluded within a reasonable time of commencement. All other matters relating to Artist's right to inspect Company's books, records and accounts shall be subject to the provisions of paragraph 10 of the Agreement.

(b) Notwithstanding the provisions of paragraph 10 of the Agreement, with respect to records sold by Company's licensees and distributors in respect of which Company has not received payment, then Company shall not be obliged to account to Artist as in said paragraph 10 of the Agreement appearing, until payment from such licensee and/or distributor has been received by Company.

9. Save as otherwise in this amending document appearing, the Agreement shall be deemed to be in full force and effect and may not be amended or otherwise varied save by an agreement in writing signed by the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the 1st day of October, 1980.

Signed for and on behalf of  
RADIALCHOICE LIMITED

By: 

Authorized Officer

Signed by TONI BASIL

  
TONI BASIL

AMENDING DOCUMENT

Reference is hereby made to that certain recording agreement (hereinafter "agreement") made August 31, 1979 by and between RADIALCHOICE LIMITED (in the agreement and hereinafter referred to as "company") and TONI BASIL (in the agreement and hereinafter referred to as "artist").

WHEREAS:

Company and artist agreed to amend certain provisions in the agreement and, pursuant to an Amending Agreement dated 1st October, 1980, such amendments were effectuated.

WHEREBY IT IS AGREED:

Notwithstanding anything to the contrary in paragraph 3 of the Amending Agreement of 1st October, 1980 appearing, in the event that company requests artist to render her services and artist agrees to so render her services, for the production or further videotapes embodying masters, such videotapes shall be subject, in all respects, to the provisions of paragraph 2 of the said Amending Agreement.

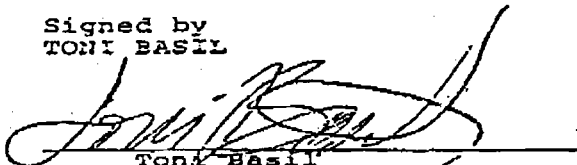
IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the 1st day of October, 1980.

Signed for and on behalf of  
RADIALCHOICE LIMITED

By: 

—Authorized Officer

Signed by  
TONI BASIL

  
Toni Basil

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the  
Central District of California

ANTONIA BASILOTTA, p/k/a TONI BASIL an individual

\_\_\_\_\_  
*Plaintiff*

*v.*  
SIMON PETER LAIT, an individual;  
(SEE ATTACHED CAPTION PAGE)

\_\_\_\_\_  
*Defendant*

)  
)  
)  
) Civil Action No. **CV 12 - 05186 DDP (SHx)**  
)  
)  
)

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

F. Edie Mermelstein  
LAW OFFICES OF F. EDIE MERMELSTEIN  
17011 BEACH BLVD., SUITE 900, HUNTINGTON BEACH, CA 92647  
714-596-0137

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: June 14, 2012

 **DENISE VO**

*Signature of Clerk or Deputy Clerk*

LAW OFFICES OF F. EDIE MERMELSTEIN  
17011 BEACH BOULEVARD, SUITE 900  
HUNTINGTON BEACH, CALIFORNIA 92647

**LAW OFFICES OF F. EDIE MERMELSTEIN**

F. Edie Mermelstein, State Bar No. 248941  
17011 Beach Blvd., Suite 900  
Huntington Beach, CA 92647  
Telephone: (714) 596-0137 Fax: (714) 842-1979

Attorneys for Plaintiff ANTONIA  
BASILOTTA p/k/a TONI BASIL, an  
individual

**UNITED STATES DISTRICT COURT**

**CENTRAL DISTRICT OF CALIFORNIA**

ANTONIA BASILOTTA, p/k/a TONI  
BASIL an individual,  
Plaintiff,

vs.

Simon Peter Lait, an individual; Clive  
Solomon, an individual; Stillwater, Ltd., a  
United Kingdom company; Razor & Tie  
Direct L.L.C., a New York Limited  
Liability Company; Razor & Tie  
Entertainment, L.L.C., a New York  
Limited Liability Company; and Razor &  
Tie Music Corp., a New York Corporation  
and DOES 1-10,

Defendants.

CASE NO.

**COMPLAINT**

**JURY TRIAL DEMANDED**

(1) Fraud or Deceit; (2) Misappropriation  
of Likeness in Violation of California  
Civil Code §3344; (3) Misappropriation of  
Name and Likeness in Violation of  
Common Law; (4) Unjust Enrichment; (5)  
Involuntary Trust; (6) Rescission based on  
Fraud and/or Lack of Consideration; (7)  
Violation of Business & Professions Code  
§ 17200, et seq; (8) Breach of Contract;  
(9) Accounting; and (10) Declaratory  
Relief.

**COMPLAINT**

Plaintiff, ANTONIA CHRISTINA BASILOTTA (p/k/a "Toni Basil"), brings this  
complaint and alleges as follows:

AO 440 (Rev. 12/09) Summons in a Civil Action (Page 2)

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the summons unexecuted because \_\_\_\_\_; or

☐ Other *(specify)*: \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:



AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the  
Central District of California

ANTONIA BASILOTTA, p/k/a TONI BASIL an individual

\_\_\_\_\_  
*Plaintiff*

SIMON PETER LAIT, an individual;  
(SEE ATTACHED CAPTION PAGE)

\_\_\_\_\_  
*Defendant*

)  
)  
)  
) Civil Action No.  
)  
)  
)

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

F. Edie Mermelstein  
LAW OFFICES OF F. EDIE MERMELSTEIN  
17011 BEACH BLVD., SUITE 900, HUNTINGTON BEACH, CA 92647  
714-596-0137

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

DENISE VO

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*



Date: June 14, 2012



LAW OFFICES OF F. EDIE MERMELSTEIN  
17011 BEACH BOULEVARD, SUITE 900  
HUNTINGTON BEACH, CALIFORNIA 92647

**LAW OFFICES OF F. EDIE MERMELSTEIN**

F. Edie Mermelstein, State Bar No. 248941

17011 Beach Blvd., Suite 900

Huntington Beach, CA 92647

Telephone: (714) 596-0137 Fax: (714) 842-1979

Attorneys for Plaintiff ANTONIA

BASILOTTA p/k/a TONI BASIL, an

individual

**UNITED STATES DISTRICT COURT**

**CENTRAL DISTRICT OF CALIFORNIA**

ANTONIA BASILOTTA, p/k/a TONI  
BASIL an individual,

Plaintiff,

vs.

Simon Peter Lait, an individual; Clive  
Solomon, an individual; Stillwater, Ltd., a  
United Kingdom company; Razor & Tie  
Direct L.L.C., a New York Limited  
Liability Company; Razor & Tie  
Entertainment, L.L.C., a New York  
Limited Liability Company; and Razor &  
Tie Music Corp., a New York Corporation  
and DOES 1-10,

Defendants.

CASE NO.

**COMPLAINT**

**JURY TRIAL DEMANDED**

(1) Fraud or Deceit; (2) Misappropriation  
of Likeness in Violation of California  
Civil Code §3344; (3) Misappropriation of  
Name and Likeness in Violation of  
Common Law; (4) Unjust Enrichment; (5)  
Involuntary Trust; (6) Rescission based on  
Fraud and/or Lack of Consideration; (7)  
Violation of Business & Professions Code  
§ 17200, et seq; (8) Breach of Contract;  
(9) Accounting; and (10) Declaratory  
Relief.

**COMPLAINT**

Plaintiff, ANTONIA CHRISTINA BASILOTTA (p/k/a "Toni Basil"), brings this  
complaint and alleges as follows:

AO 440 (Rev. 12/09) Summons in a Civil Action (Page 2)

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_; or

☐ I returned the summons unexecuted because \_\_\_\_\_; or

☐ Other *(specify)*: \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA**  
**CIVIL COVER SHEET**

<b>I (a) PLAINTIFFS</b> (Check box if you are representing yourself <input type="checkbox"/> ) ANTONIA BASILOTTA p/k/a TONI BASIL	<b>DEFENDANTS</b> Simon Peter Lait; Clive Solomon; Stillwater, Ltd.; Razor & Tie Direct, LLC; Razor & Tie Entertainment, LLC; Razor & Tie Music Corporation.
<b>(b) Attorneys</b> (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) F. Edie Mermelstein, Law Offices of F. Edie Mermelstein, 17011 Beach Blvd., Ste 900, Huntington Beach, CA 92647	<b>Attorneys</b> (If Known)

<b>II. BASIS OF JURISDICTION</b> (Place an X in one box only.)  <input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)  <input type="checkbox"/> 2 U.S. Government Defendant <input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	<b>III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only</b> (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%; border: none;"> <tr> <td style="width:30%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> <td style="width:40%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td align="center"><input checked="" type="checkbox"/> 1</td> <td align="center"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in this State</td> <td align="center"><input type="checkbox"/> 4</td> <td align="center"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td align="center"><input type="checkbox"/> 2</td> <td align="center"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td align="center"><input type="checkbox"/> 5</td> <td align="center"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td align="center"><input type="checkbox"/> 3</td> <td align="center"><input checked="" type="checkbox"/> 3</td> <td>Foreign Nation</td> <td align="center"><input type="checkbox"/> 6</td> <td align="center"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input checked="" type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5																				
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input checked="" type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

**IV. ORIGIN** (Place an X in one box only.)

<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify):	<input type="checkbox"/> 6 Multi-District Litigation	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judge
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**V. REQUESTED IN COMPLAINT: JURY DEMAND:** ☒ Yes    ☐ No (Check 'Yes' only if demanded in complaint.)

**CLASS ACTION** under F.R.C.P. 23: ☐ Yes    ☒ No

**MONEY DEMANDED IN COMPLAINT:** \$ 5,000,000

**VI. CAUSE OF ACTION** (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)  
 28 U.S.C. § 1332(a)(1)      Fraudulent transfers of ownership and unauthorized use of the hit song, "Mickey" by Toni Basil

**VII. NATURE OF SUIT** (Place an X in one box only.)

<b>OTHER STATUTES</b> <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	<b>CONTRACT</b> <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>TORTS</b> <b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<b>TORTS</b> <b>PERSONAL PROPERTY</b> <input checked="" type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability <b>BANKRUPTCY</b> <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER</b> <b>PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General Habeas Corpus <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <b>FORFEITURE/PENALTY</b> <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
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**FOR OFFICE USE ONLY:** Case Number: CV 12 - 05186 DDP (SHx)

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA**  
**CIVIL COVER SHEET**

**VIII(a). IDENTICAL CASES:** Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes

If yes, list case number(s): \_\_\_\_\_

**VIII(b). RELATED CASES:** Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes

If yes, list case number(s): \_\_\_\_\_

**Civil cases are deemed related if a previously filed case and the present case:**

(Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or

☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or

☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or

☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

**IX. VENUE:** (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides.

☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles	

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides.

☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	United Kingdom; United Kingdom; United Kingdom; New York; New York; New York

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.

**Note: In land condemnation cases, use the location of the tract of land involved.**

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles	

\* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

**Note: In land condemnation cases, use the location of the tract of land involved**

**X. SIGNATURE OF ATTORNEY (OR PRO PER):** *[Signature]* Date June 14, 2012

**Notice to Counsel/Parties:** The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

**Key to Statistical codes relating to Social Security Cases:**

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))